

## § 40.211

Management and Budget control number reference, effective June 22, 2009 through June 22, 2012.

### PACKAGES

#### § 40.211 Package.

All tobacco products shall, before removal subject to tax, be put up by the manufacturer in packages which shall be of such construction as will securely contain the products therein and maintain the mark and the notice thereon as required by this part. No package of tobacco products shall have contained therein, attached thereto, or stamped, marked, written, or printed thereon (a) any certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery, (b) any indecent or immoral picture, print, or representation, or (c) any statement or indication that United States tax has been paid. No person may purchase, receive, possess (except for personal consumption), offer for sale, or sell or otherwise dispose of, after removal, any tobacco products that are not put up in packages bearing the marks, labels, and notices, as required under this part.

(26 U.S.C. 5723 and 5751)

[T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28081, Aug. 5, 1986 T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

EFFECTIVE DATE NOTE: By T.D. TTB-78, at 74 FR 29409, June 22, 2009, § 40.211 was amended by adding a sentence at the end of the section and by revising the statutory citations, effective June 22, 2009 through June 22, 2012.

#### § 40.212 Mark.

Every package of tobacco products packaged in a domestic factory shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, a mark as specified in this section. The mark may consist of the name of the manufacturer removing the product subject to tax and the location (by city and State) of the factory from which the products are to be so removed, or may consist of the permit number of the factory from which the products are to be so removed. (Any trade name of the manufacturer approved as provided in

## 27 CFR Ch. I (4–1–10 Edition)

§ 40.65 may be used in the mark as the name of the manufacturer.) As an alternative, where tobacco products are packaged and removed subject to tax by the same manufacturer, either at the same or different factories, the mark may consist of the name of such manufacturer if the factory where packaged is identified on or in the package by a means approved by the appropriate TTB officer. Before using the alternative, the manufacturer shall notify the appropriate TTB officer in writing of the name to be used as the name of the manufacturer and the means to be used for identifying the factory where packaged. If approved by him the appropriate TTB officer shall return approved copies of the notice to the manufacturer. A copy of the approved notice shall be retained as part of the factory records at each of the factories operated by the manufacturer.

(72 Stat. 1422; 26 U.S.C. 5723)

[T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975; T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 52 FR 43194, Dec. 1, 1986]

#### § 40.213 Tobacco products labeled for export.

Tobacco products labeled for export are ineligible for removal from the factory and distribution into the domestic U.S. market. Such products may only be sold, transferred or delivered onto the domestic U.S. market by a manufacturer of tobacco products after repackaging of the product. For the purposes of this section, “repackaging” shall mean the removal of the tobacco product from its original package bearing the export marks and placement of the product in a new package. The new packages, marks and notices must conform to the requirements of this subpart.

[T.D. ATF-421, 64 FR 71924, Dec. 22, 1999]

#### § 40.214 Notice for cigars.

Before removal subject to tax, every package of cigars shall have adequately imprinted on it, or on a label securely affixed to it—

- (a) The designation “cigars”;
- (b) The quantity of cigars contained in the package; and

(c) For small cigars, the classification of the product for tax purposes (i.e., either “small” or “little”).

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5723))

[T.D. ATF-80, 46 FR 18310, Mar. 24, 1981]

#### § 40.215 Notice for cigarettes.

Every package of cigarettes shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation “cigarettes”, the quantity of such product contained therein, and the classification for tax purposes, i.e., for small cigarettes, either “small” or “Class A”, and for large cigarettes, either “large” or “Class B”.

(72 Stat. 1422; 26 U.S.C. 5723)

#### § 40.216 Notice for smokeless tobacco.

(a) *Product designation.* Every package of chewing tobacco or snuff shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation “chewing tobacco” or “snuff.” As an alternative, packages of chewing tobacco may be designated “Tax Class C”, and packages of snuff may be designated “Tax Class M”.

(b) *Product weight.* Every package of chewing tobacco or snuff shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, a clear statement of the actual pounds and ounces of the product contained therein. As an alternative, the shipping cases containing packages of chewing tobacco or snuff may, before removal, have adequately imprinted thereon, or on a label securely affixed thereto, a clear statement, in pounds and ounces, of the total weight of the product, the tax class of the product, and the total number of the packages of product contained therein.

(Approved by the Office of Management and Budget under control number 1512-0502)

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5723))

[T.D. ATF-243, 51 FR 43194, Dec. 1, 1986, as amended by T.D. ATF-446, 66 FR 16602, Mar. 27, 2001]

#### § 40.216a Notice for pipe tobacco.

(a) *Product designation.* Every package of pipe tobacco shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, the designation “pipe tobacco.”

(b) *Product weight.* Every package of pipe tobacco shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, a clear statement of the actual pounds and ounces of the product contained therein.

[T.D. ATF-289, 54 FR 48840, Nov. 27, 1989. Redesignated at T.D. ATF-424, 64 FR 71931, Dec. 22, 1999]

EFFECTIVE DATE NOTE: By T.D. TTB-78, at 74 FR 29410, June 22, 2009, § 40.216a was amended by removing the last sentence of paragraph (a), effective June 22, 2009 through June 22, 2012.

#### § 40.216b Notice for roll-your-own tobacco.

(a) *Product designation.* Every package of roll-your-own tobacco, before removal subject to tax, must have adequately imprinted on it, or on a label securely affixed to it, the applicable designation “roll-your-own tobacco”, “cigarette tobacco”, “cigar tobacco”, “cigarette wrapper”, or “cigar wrapper”.

(b) *Product weight.* Before removal subject to tax, roll-your-own tobacco must have a clear statement of the actual weight in pounds and ounces of the product in the package. This statement must be adequately imprinted on, or on a label securely affixed to, the package.

(Approved by the Office of Management and Budget under control number 1513-0091)

[T.D. ATF-429, 65 FR 57547, Sept. 25, 2000]

EFFECTIVE DATE NOTE: By T.D. TTB-78, at 74 FR 29410, June 22, 2009, § 40.216b was amended by revising paragraph (a) and the Office of Management and Budget control number reference, effective June 22, 2009 through June 22, 2012.

#### § 40.216c Package use-up rule.

(a) During the period from June 22, 2009, through March 23, 2010, a manufacturer of tobacco products may remove packages of pipe tobacco or roll-your-own tobacco that do not meet the